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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,464	07/08/2002	Jonathan William Clarke	047-0057	4142

7590 12/29/2004

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EXAMINER

NERBUN, PETER P

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,464

Applicant(s)

CLARKE ET AL.

Examiner

Peter P. Nerbun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-28, 31-34 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 Sept 2001 & 23 Sept 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

The amendment filed September 23, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a tufting machine as described in the amendment on page 3, 10-24 and as illustrated in new Figure 4; the new matter includes the description of a tufting machine having a carriage 16 which is slidably supported on support rods 18, said carriage being connected to a needlebar driver 20. Note MPEP 2163.06 which states that "If an applicant amends or attempts to amend the abstract, specification or drawings of an application, an issue of new matter will arise if the content of the amendment is not described in the application as filed.". The specific structure illustrated in new Figure 4 and described on page 3, lines 10-24 of the amendment was not described in the application as filed.

Applicant is required to cancel the new matter in the reply to this Office Action.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). Accordingly applicant may provide a drawing figure with three rectangular boxes, one labeled "Needlebars", another labeled "Loopers/Hooks" and another labeled "Knives". The boxes may be connected to each other by a single line.

This would overcome the objection to the drawings made in this paragraph pursuant to 37 CFR 1.83(a).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-28 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over White (U.S.P. 5,738,027) in view of Slattery (U.S.P. 4,860,674). The patent to White discloses a method for running a tufting machine (see col. 3, lines 9-10) having loopers 30, Fig. 2 to pick up yarn, knives 32,34 to cut yarn loops and driving means 66 characterized in that the needle action and/or the looper action and/or the hook action and/or the knife action is/are non-simple harmonic motion (note that driving means 66 of White superimposes a short-stroke vibrational motion on top of the to-and-from movement of the cutting edge 34 to thereby enhance the cutting operation (see claim 1, lines 6-10). Thus the knife action is not sinusoidal as defined by the function $y = \sin(t)$ where "y" is the amplitude of knife movement and "t" is time. Rather the knife action is defined by a function in which the sine wave is altered to another function having ripples superimposed therealong. This new function is not a sine wave defined by $y = \sin(t)$ and hence the knife action is non-simple harmonic motion. Note that

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applicant defines non-simple harmonic motion as non-sinusoidal motion on page 3, lines 24-26 of the specification. It would have been deemed obvious that the method described by White utilizes needlebars, loopers, and knives as suggested by Slattery since White defines a tufting method in which these elements are routinely used.

Claims 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

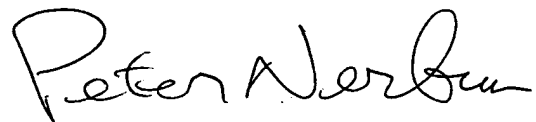
Claims 29 and 30 are allowed since the prior art does not teach or fairly suggest a method including the step of holding loopers and/or hooks in an extended position to hold the loops until later in a tufting cycle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4993. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun
December 23, 2004

A handwritten signature in black ink that reads "Peter Nerbun". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Peter Nerbun
Primary Examiner